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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,065	10/19/2000	John F. Acres	4164-158	8782

7590 10/11/2002

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EXAMINER

COBURN, CORBETT B

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 10/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/694,065

Applicant(s)

ACRES, JOHN F.

Examiner

Corbett B. Coburn

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 September 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-35 & 37-62.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Continuation of 2. NOTE: While the amendment overcomes the rejection of claim 1, Examiner would be required to do a new search to address obviousness of the newly added limitation.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 24 August 2002 have been fully considered but they are not persuasive.
2. With regard to the rejection of claim 59 under 35 USC §112, first paragraph, Applicant argues that while whether an amount is transferred or not is a function of the balance, the amount transferred is not a function of the balance. This argument ignores the definition of a function. The Merriam Webster Collegiate Dictionary (10<sup>th</sup> Edition) defines function as: a mathematical correspondence that assigns exactly one element of one set to each element of the same or another set. The function,  $f(b)$ , defining the transfer of funds would be defined as:

$$\begin{aligned} & 0 \text{ for } b < C \\ f(b) = & \\ & C \text{ for } b \geq C \end{aligned}$$

Where  $b$  = Balance and  $C$  = Constant and  $f(b)$  is the amount transferred.

Clearly, the amount transferred is a function of the balance.

3. Applicant argues that LeStrange fails to disclose, "providing access to the account responsive to a command initiated by a player at one of the gaming devices." Applicant is in error. Figures 4a-b & 5a-b clearly show access to the account responsive to commands issued by the player at one of the gaming devices. For instance, Fig 4b teaches a player issuing a command to bet at a gaming machine (212). Steps 214-218 show accessing the player's account in response to that command.

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4. Applicant argues that because LeStrange lists some of the possible events that would cause the credit meters to update, LeStrange teaches away from Applicant's claim of recording the credit meter reading before and after each change. Applicant points out that the list of possible action that might cause the credit meters to be updated are all initiated by the user. LeStrange, however, explicitly states that the audit trail information is recorded, "**whenever** the system updates meter values". (Col 7, 2-4) (Emphasis added) This means that each and every time the credit meters are updated, for whatever reason, whether because of player action or system action, the audit trail information is recorded.

5. Applicant argues that claims 36, 40, and 43-49 are allowable because they depend from an allowable claim. Examiner disagrees for reasons stated above. Examiner also notes that Applicant has withdrawn claim 36 from consideration, thus it cannot be allowable.

6. Applicant argues that the rejection of claims under 35 USC §103 as being unpatentable under Jorasch in view of Kishishita is improper because "It was apparently not obvious to developers of the Jorasch system to include Kishishita's anonymous player accounts because they did not do so." (Page 14 of Applicant's paper 9) This is tantamount to arguing that Congress has not really enacted 35 USC §103 and that the courts have not formulated the obviousness standard. An applicant cannot list everything known to the art in every application, nor need he. Congress and the courts have made it clear that teachings of references may be combined to reject claims under appropriate circumstances. See *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966).

7. Applicant argues that the Jorasch and Kishishita references fail to teach the Applicant's invention because they fail to teach the details of their accounting practices. Applicant admits

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that careful accounting is known to the art. (Page 15 of paper 9) Yet Applicant suggests that checking for errors by subtracting the initial meter reading from a post-transfer meter reading and comparing the result to the amount transferred is unknown to the art. This is basic bookkeeping.

8. Applicant argues that rejection of claim 17 is inappropriate because LeStrange discloses “transferring a predetermined credit from the account to the gaming device responsive to a transfer command initiated by the player at said gaming machine” in connection to a promotional ticket or debit card. First of all, Applicant completely ignores the second part of LeStrange’s disclosure – the part specifically and clearly discussed in the previous office action. This says, “These tickets or cards can be issued by casinos for promotional events or as a means for limiting the amount of money that a player can gamble in states where the maximum amount is specified by law.” Furthermore, Applicant’s claim does not exclude the transfer from promotional cards or promotional accounts. Therefore, Applicant’s arguments are not commensurate with the scope of the claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc

October 9, 2002

